

Notice of Allowability

Application No.

10/790,636

Applicant(s)

DINSMORE, MARK

Examiner

Courtney Thomas

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the After Final Amendment filed; 02/23/09.
2. ☒ The allowed claim(s) is/are 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>20091019-B</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Mr. Matthew Fenselau (64,765) on 10/19/09.

The amendment below is made to reflect changes to original patent claims and to conform the submitted amendment to the provisions of rule 1.173.

Please rewrite claim 9 as follows:

9. [Currently Amended] A therapeutic radiation source according to claim 5, wherein the distance between adjacent turns of said [conductive coil] spiral-shaped conductive element is from about 25 microns to about 50 microns.

Please rewrite claim 13 as follows:

13. [Currently Amended] A therapeutic radiation source according to claim 5, wherein said spiral-shaped conductive [coil] element has a length between about 2 mm to about 7 mm.

Allowable Subject Matter

2. Claims 1-30 are allowed.
3. The following is an examiner's statement of reasons for allowance:
4. As per claim 1 and dependent claims 2-20, the examiner found no reference in the prior art that disclosed or made obvious a source comprising: a thermionic cathode having a spiral-shaped conductive element; a source of optical radiation and an optical delivery structure, adapted for directing a beam of transmitted optical radiation upon a surface of a thermionic cathode; and wherein the beam of optical radiation has a power level sufficient to heat at least a portion of the surface to an electron emitting temperature so as to cause thermionic emission of electrons from the surface and including all limitations recited in independent claim 1.
5. As per claim 21, the examiner found no reference in the prior art that disclosed or made obvious a source comprising: a thermionic cathode having a spiral-shaped conductive element; a source of optical radiation and an optical delivery structure, adapted for directing a beam of transmitted optical radiation upon a surface of a thermionic cathode; and wherein the beam of optical radiation has a power level sufficient to heat at least a portion of the surface to an electron emitting temperature so as to cause thermionic emission of electrons from the surface and including all limitations recited in independent claim 21.

6. As per claim 22 and dependent claims 23-28, the examiner found no reference in the prior art that disclosed or made obvious a probe comprising: a thermionic cathode having a spiral-shaped conductive element; a source of optical radiation and an optical delivery structure, adapted for directing a beam of transmitted optical radiation upon a surface of a thermionic cathode; and wherein the beam of optical radiation has a power level sufficient to heat at least a portion of the surface to an electron emitting temperature so as to cause thermionic emission of electrons from the surface and including all limitations recited in independent claim 22.

7. As per claims 29 and 30, the examiner found no reference in the prior art that disclosed or made obvious a source and probe respectively, comprising: a thermionic cathode having a spiral-shaped conductive element; a source of optical radiation and an optical delivery structure, adapted for directing a beam of transmitted optical radiation upon a surface of a thermionic cathode; and wherein the beam of optical radiation has a power level sufficient to heat at least a portion of the surface to an electron emitting temperature so as to cause thermionic emission of electrons from the surface and including all limitations recited in independent claims 29 and 30.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Courtney Thomas whose telephone number is (571) 272-2496. The examiner can normally be reached on M - F (9 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on (571) 272 2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Courtney Thomas/

Courtney Thomas
Primary Examiner
Art Unit 2882

Application/Control Number: 10/790,636
Art Unit: 2882

Page 6